

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BEM, : NO. 99-20,652
Petitioner :
 :
vs. : DOMESTIC RELATIONS SECTION
 : Exceptions
ROK, III, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent's exceptions to the Family Court Order dated May 15, 2001, corrected by Order dated May 30, 2001. Argument on the exceptions was heard August 29, 2001. Respondent's exceptions will be addressed as written, seriatim.

First, Respondent contends the hearing officer erred in determining his monthly net income because he has had a reduction in current and future overtime. Any change in Respondent's overtime is a matter for a Petition to Modify the Order, not properly raised in exceptions.

Second, Respondent contends the hearing officer erred in not considering the daycare expense for his son to his current relationship. Since Respondent's income is sufficient such that payment of his child support obligation, supporting his child at home and the child care expense for the child at home does not reduce his income below the CAM of \$550.00 per month, the hearing officer did not err in not considering such.

Third, Respondent contends the hearing officer erred in the child care expense allowed for Petitioner. Specifically, Respondent contends the evidence offered by Petitioner was falsified. If Respondent has information which came to light after the hearing, he may file a Petition to open the record. Respondent does not at this time have information which the Court feels warrants opening the record and therefore the exceptions will not be treated in that light and the matter will not be

remanded at this time. Should further information arise, however, Respondent is free to file such a Petition.

Fourth, Respondent contends the hearing officer erred in adding the full amount of his tax refund to his income in calculating his child support obligation. It appears that the only income reported on Respondent's tax return, although a joint return with his wife, was that of Respondent. Therefore, any refund was completely attributable to Respondent and the hearing officer did not err in this regard.

Fifth, Respondent contends the hearing officer erred by not considering the correct amount of his pension as a deduction in calculating his net income. Respondent was unable to provide the Court with any specific way in which the hearing officer erred and therefore this matter will not be considered further.

Sixth, Respondent contends the hearing officer erred in calculating his percentage responsibility for support, child care expense, and medical expenses, due to miscalculating his income. Since the income was not miscalculated, the hearing officer did not err in determining the percentage responsibility for those expenses.

Finally, Respondent contends the hearing officer erred in using his wife's income in figuring his child support obligation. A review of the Order indicates that the hearing officer used his wife's income (earning capacity) only for the purpose of calculating his obligation to the child at home to insure that both obligations did not exceed 50% of his income. Such a use is proper and the Court finds no error in this regard.

ORDER

AND NOW, this 31st day of August, 2001, for the foregoing reasons, Respondent's exceptions are hereby denied and the Orders of May 15, 2001 and May 30, 2001 are hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
Domestic Relations
Julie Pentico, Esq.
Jeff Yates, Esq.
Gary Weber, Esq.
Hon. Dudley N. Anderson